

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JACQUELINE SILVER,

Plaintiff,

-against-

SERGEANT SCOTT DALESSANDRO, POLICE
OFFICER LUIGI GALANO, POLICE OFFICER
NICHOLAS KOSTAS, and POLICE OFFICER EDWARD
STINE,

Defendants.

**NOTICE TO PRO SE
LITIGANT OPPOSING
RULE 12 MOTION**

15 CV 3462 (ARR) (ST)

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PLEASE TAKE NOTICE that pursuant to Rule 12 of the Federal Rules of Civil Procedure and Rule 12.1 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, defendants Dalessandro, Galano, Kostas and Stine (“Defendants”), by their attorney, Zachary W. Carter, Corporation Counsel of the City of New York, hereby notify plaintiff that defendants have moved to dismiss the Complaint, without a trial, based on written materials submitted in support of the motion. Because the Court may convert this motion into one for summary judgment, pursuant to their obligations under Local Civil Rule 12.1, defendants are providing plaintiff with the notice required under Local Civil Rule 12.1, which states that:

Defendants have moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and have submitted additional written materials. This means that defendants have asked the Court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this

reason, **THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION** by filing sworn affidavits as required by Rule 56(c) and/or other documents. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may **NOT** oppose defendants' motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by defendants and raising specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendants' motion.

If you do not respond to the motion on time with affidavits and/or documents contradicting the facts asserted by defendants, the Court may accept defendants' facts as true. Your case may be dismissed and judgment may be entered in defendants' favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Dated: New York, New York
December 14, 2016

ZACHARY W. CARTER
Corporation Counsel of the City of
New York
*Attorney for Defendants Dalessandro,
Galano, Kostas and Stine*
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(212) 356-5057

By: /s/

Kaitlin Fitzgibbon
Assistant Corporation Counsel

cc: **BY FIRST CLASS MAIL AND EMAIL**

Jacqueline Silver

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